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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,927	06/26/2007	Masayoshi Komiya	PHJP040005US	6643
38107 7590 01/14/2009 PHILIPS INTELLECTUAL PROPERTY & STANDARDS 595 MINER ROAD CLEVELAND, OH 44143			EXAMINER PAULS, JOHN A	
			ART UNIT 4114	PAPER NUMBER
			MAIL DATE 01/14/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/599,927	<b>Applicant(s)</b> KOMIYA ET AL.	
	<b>Examiner</b> JOHN A. PAULS	<b>Art Unit</b> 4114	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 October 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>31 October, 2006</u> .  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

**Status of Claims**

1. This action is in reply to the application filed on 31 October, 2006 as amended.
2. Claims 3, 4 and 5 have been amended by a preliminary amendment.
3. Claims 1 - 5 are currently pending and have been examined.

**Information Disclosure Statement**

4. The Information Disclosure Statement filed on 31 October, 2006 has been considered. An initialed copy of the Form 1449 is enclosed herewith.

***Specification***

5. The specification is objected to because the specification discloses "medical information for patients is information concerning doctors' diagnosis and treatment record sheets in Form No. 2." The specification does not disclose what Form No 2 is or how it is used in the present invention. Additionally, the information contained in the follow-up sheets is described in the specification as being "displayed in the form by which the tendency of progress is known". The specification does not disclose what form is used or how it is used in the present invention. Correction is required. See MPEP § 608.01(b).

***Claim Rejections - 35 USC § 101***

6. 35 U.S.C. 101 reads as follows:  
  
Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.
7. Claims 1 – 4 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 1 - 4 are directed to a device with "means for" which could constitute software per se.  
  
The claims constitute computer programs representing computer listings per se. Such descriptions or expressions of the programs are not physical "things". They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed

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computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer, which permit the computer program's functionality to be realized. See *Lowry*, 32 F.3d at 1583-84, 32 USPQ2d at 1035

***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claim 1 - 4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1 – 4 recite a device, however, there is no structure claimed. The limitations of these claims could be performed by software alone.
10. Claim 1 - 4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 recite means for, however, the specification does not disclose specific structure or acts as required by USC 112 6<sup>th</sup> paragraph. Therefore the scope of the claims is not clear.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

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4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
13. **Examiner's Note:** The Examiner has pointed out particular references contained in the prior art of record within the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.
14. Claims 1 – 5 are rejected under 35 U.S.C. 103(a) as being obvious over Smith (US PG PUB 2003/0069759 A1).

**CLAIM 1**

Smith as shown discloses the following limitations:

*A clinical communication device comprising:*

- *electronic medical record information extraction means for extracting electronic medical record information from an electronic medical record database; (see at least Smith paragraph 0019);*
- *the electronic medical record information including at least:*
  - *clinical pathways; (see at least Smith paragraph 0008). Examiner notes that the "clinical pathways" in the present application have the same meaning as "treatment plan" as disclosed in Smith.*
  - *medical record information for patients; (see at least Smith paragraph 0019);*
  - *follow-up sheets for the patients; (see at least Smith paragraph 0153). Examiner notes that the "follow-up sheets" in the present application have the same meaning as "tracking functionality" as disclosed in Smith.*
- *clinical communicator information extraction means for extracting clinical communication information; (see at least Smith paragraph 0140);*
- *the clinical communication information including at least:*

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- *event information for the patients*; (see at least Smith paragraph 0020). Examiner notes that the “*event information for the patients*” in the present application has the same meaning as “health care activities” as disclosed in Smith, and constitute events along the clinical pathway.
- *event information for medical care professionals* (); (see at least Smith paragraph 0065 and 0148). Examiner notes that the “*event information for medical care professionals*” in the present application has the same meaning as “task list and Follow-up visit” as disclosed in Smith which allow a medical care professional established scheduled events.
- *messages to/from the medical care professionals*; (see at least Smith paragraph 0146 and 0147).
- *information update means for updating the electronic medical record information and/or the clinical communication information in accordance with an input*; (see at least Smith paragraph 0020 and 0140);
- *display control means for displaying the electronic medical record information and the clinical communication information, while linking them with each other*. (see at least Smith paragraph 0019 and 0020).

Smith does not disclose that the communicator information is extracted from a “clinical communicator database” per se, however, Smith does disclose lists of practitioners from which contacts may be made or events scheduled. It would be obvious to one of ordinary skill in the art at the time of the invention to modify the Health Care Management System of Smith with a separate contact list database because allows for the management of health care personnel contact information and messaging separate from patient information.

**CLAIM 2**

Smith as shown discloses the limitations shown above. Additionally, Smith discloses the following limitations:

- *the electronic medical record information includes:*
  - *diagnosis information*; (see at least Smith paragraph 0087 - 0095);

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- *order information*; (see at least Smith paragraph 0096 - 0131);
- *the display control means*:
  - *generates a scheduling table containing the event information for the patients*; (health care activities); (see at least Smith paragraph 0020 0060 and 0065);
  - *the event information for the medical care professionals*; (see at least Smith paragraph 0065 and 0148);
- *displays the*
  - *diagnosis and treatment records*; (see at least Smith paragraph 0087 - 0095);
  - *the order information*; (see at least Smith paragraph 0096 - 0131);
  - *the follow-up sheets*; (see at least Smith paragraph 0153);
  - *the clinical pathways from the scheduling table*; (see at least Smith paragraph 0008).

### **CLAIM 3**

Smith as shown discloses the limitations shown above. Additionally, Smith discloses the following limitations:

- *the information update means sets an importance level to information that is to be exchanged between the medical care professionals*; (see at least Smith paragraph 0140).

### **CLAIM 4**

Smith as shown discloses the limitations shown above. Additionally, Smith discloses the following limitations:

- *the display control means issues an alert when a scheduled time to implement an event for the patients and/or an event for the medical care professionals has passed*; (see at least Smith paragraph 0075 - 0076).

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**CLAIM 5**

Smith as shown discloses the limitations shown above. Additionally, Smith discloses the following limitations:

*A hospital information system comprising:*

- *an electronic medical record database having stored therein electronic medical record information including at least:*
  - *clinical pathways; (see at least Smith paragraph 0008);*
  - *medical record information for patients; (see at least Smith paragraph 0019);*
  - *follow-up sheets for the patients; (see at least Smith paragraph 0153);*
- *stored clinical communication information including at least:*
  - *event information for the patients; (see at least Smith paragraph 0020);*
  - *event information for medical care professionals; (see at least Smith paragraph 0065 and 0148);*
  - *messages to/from the medical care professionals; (see at least Smith paragraph 0146 and 0147);*
- *a clinical communication device connected to the electronic medical record database and the clinical communicator database through a communication link; (see at least Smith paragraph 0022).*

Smith does not disclose that the communicator information is extracted from a “clinical communicator database” per se, however, Smith does disclose lists of practitioners from which contacts may be made or events scheduled. It would be obvious to one of ordinary skill in the art at the time of the invention to modify the Health Care Management System of Smith with a separate contact list database because allows for the management of health care personnel contact information and messaging separate from patient information.



### CONCLUSION

Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **John A. Pauls** whose telephone number is **571-270-5557**. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **JAMES A. REAGAN** can be reached at **571.272.6710**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair> . Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free).

Any response to this action should be mailed to:

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or faxed to **571-273-8300**.

Hand delivered responses should be brought to the **United States Patent and Trademark Office Customer Service Window:**

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Date: 24 December, 2008

/JOHN A. PAULS/

Examiner, Art Unit 4114

/James A. Reagan/

Supervisory Patent Examiner, Art Unit 4114